App F IX 4

1932 (Revenue) (mL) 3761?

File No 61-32

Serial Nos 3704

Previous References
mL 1-31-110, 119
" 2-30 74 76 78 84 & 116

Later References
mL 1-31 35 39 98, 106 161 162, 168, 169, 170 172 175, 177, 178
mL 1-34 50, 60 236 237 257 258 264 265

PRESERVED

General and Revenue Secretariat

Serial Nos

Part B for April 1933

SUBJECT

Resolution of the Bangalore City mL C ~~to grant~~ the re regard to the sale of the vacant site on the Sir Narasimharaja Road to ~~the~~ Mr Hastole Bhadrap Subject to certain conditions

sl 69

To Mr Commr, Blore City thro the President, L 6676 dated ~~29-5-1933~~ 17 4 33

State that Govt consider ~~that~~ it is expedient to keep the land open and trust the ~~case~~ sale has been cancelled as already ordered

Re
29/5/33

General and Revenue Secretariat | File No 61 of 1932—33 | [App I III—2

Serial No	
37	From The Municipal Commissioner, Bangalore, No 93, 2nd dated 26-1-1933 forwards the resolution of the Municipal Council of the 5th instant in regard to the imposition of a 50% restriction against the construction of a Theatre or a Cinema Hall in the site for Sri Narasimharaja Road granted to Mr Hoskote Bhadrappa. The previous file on the subject has been shown in the Diary as having been transferred to the Development Branch on 17.10.32. This will also be sent there in continuation for needful action if any.
	Sgd Illegible 2/2/33 — The file may be got back and this paper worked up. Sgd 5/2/33
	The Development Branch kindly put up the file (Rd 1-31-85 (It was put up with the petition of one Sattar Kh 1100 sq about the grant of a site for a cinema th
	Sgd Illegible 6/2/33 — The connected file has been submitted to Hon'ble Member vide Do No 2703 dated 6.2.33 and he returned it on 7.2.33. As soon as it returns work will be expedited. Sgd Illegible Supdt L&G Br With Compliments

Dno L 1617/32-33 Why transferred & what law now

Sgd 6/2/33

NCDF—Con n Sheet

WD 0 16 —GPB—15 000—22 8-3

L 3290

M2 File No 61 of 1932 | General and Revenue Secretariat

In this office letter no L 7304 of 27 4 32 the Collector was informed that it is doubtful whether the condition that no cinema hall or theatre should be constructed on the site can or will be enforced and that the sale of the site to Mr Bhaorappa may therefore be cancelled

2 In reply the Collector now states that the special Committee of the Lawyer members of the Council formed have decided that a restriction of the kind could be validly attached to the grant under para 2 of Section 11 of the Transfer of Property Regulation

3 Submitted for orders The Law dept may be consulted

SG CG
6/3/33

4 Please put up M file L 30-116

11/3

5 Municipal file L-30-116 is put up

CG
14/3/33

6 Reference is invited to the II Members minute dt 18.1.32 in M file 1-31 put up

In spite of the assurance communicated in this office letter no of the 7th April 1932 that the sale of the land to Mr Bhadrappa may be cancelled & the land kept open for the present, the MCC have refused the grant of the enforceability of a condition against the construction of a theatre or cinema on the site to the effect formed

General and Revenue Secretariat

File No 6/ of 1932

Serial No

of the Lawyer members of the Council & forwarded their opinion that such a condition could be validly attached to the grant of the site

4 The Rect are evidently not in favor of cancelling the sale of the land to Mr Bhadrappa

12 May a reply be sent that Govt desire that the land should be kept open for the present and that the sale may be cancelled as already ordered

For orders

II Member) 17/3

Please consult Law Secy & send this Rec by 21/3

Law Secy for a note

RG 22/(3)33. 22/3

As a general principle of law it can be stated that when an absolute transfer by sale or otherwise is made, the transferee cannot be trammelled with any condition limiting the enjoyment of the property transfered This is embodied in the first para of sec 11 of the Transfer of Property Act. The only exception made to this general rule is what is provided for in para 2 of the said section, ~~and~~ whereby restrictions made " for the purpose of securing the

210 - Law

NOTE—Contn Sheet

Sec of W I C II
20 AR 1 33
No 7629

beneficial enjoyment of property' are ~~are~~ enforceable Where there is a negative Covenant- expressed or implied, as for instance, not to build so as to obstruct a view, or not to use a piece of land otherwise than as a garden, the Court interferes to enforce them on principles of equity

Such covenants are however not Covenants running with the land but can bind only transferees with notice under sec 40 of the T P Act They can ~~of~~ therefore be enforced against bonafide transferees for value without notice of the Covenant

In this case the restriction that is proposed to be imposed is that the transferee should not build a theatre or a cinema hall on the land sold to him This restriction cannot be said to be invalid since it is for the beneficial enjoyment of another immoveable property near by But it is somewhat doubtful if the present owners of the property for whose benefit the condition is to be imposed, can legally enforce it, when a necessity arises, except with the help of the Municipal Council - And if after a lapse of time the land comes into the possession of persons having no notice of these special conditions, it may perhaps be very difficult

Serial No

to enforce them even with the help of the Municipality.

If therefore it is intended to keep the land open for the present, it seems much better to cancel the sale now made by the Municipality on the ground of its being ultra vires, since sales of municipal lands without the requisite sanction of Govt are void and convey no title, than to confirm such sales and impose restrictions as to the mode of enjoyment of the property by the purchaser.

(Gen Secy) BSP 3/4

The Municipal council may be informed that apart from the question of the validity of a condition like the one proposed Govt cannot in view of all the circumstances consider it expedient to keep the land open and trust that the sale has been cancelled, as already ordered

(Secret Number) new 6/4/33

mg 6/4

Submitted with a draft for perusal before issue

(Gen Secy) 10/4/33

new 7/4/33

Draft 8/4

RG

ENG SECTION 15 APR 33 4 65P 71 Corrn. Sheet

WD 0246 —GPB—15 000—22 8-32

File No	of 193	General and Revenue Secretariat
Issued vide No. 6676 dt 17 & 33 to Inspector Berhampur stating that the sale has been cancelled as already ordered.	49	✓ B 24

mcb1-32 37

CITY MUNICIPAL OFFICE

No G-To 224/Sec hro

Bangalore City Dated 19th Jan 19 26 -1

GEN 3290
27 JAN 1926
LEGISLATIVE BRANCH

FROM

P H KRISHNA RAU ESQ M A,
MUNICIPAL COMMISSIONER
BANGALORE CITY

To

R Ranga Rao, Esq , B A , B L ,
General Secretary to the Government of
His Highness the Maharaja of Mysore,
Bangalore

GENERAL SECRETARY
26 JAN 1926
No L 55
26/1/26

Sir,

With reference to the correspondence ending with your letter No L 7304/M1 1-31-119 dated 27th April 1932, stating that with regard to the sale of the vacant site on Sri Narasimharaja Road, to Mr Hoskote Bhadrappa, it is doubtful whether the condition that no Cinema Hall or Theatre should be constructed on the site can, or will be enforced and that the sale may therefore be cancelled and the land be kept open, I have the honor to state that this matter was referred to a Special Committee formed of all the Lawyer members of the Council and they have opined that in the opinion of the Committee a restriction against the construction of a Theatre or a Cinema Hall in the site could be validly attached to the grant under Para 2 of Section 11 of the Transfer of Property Regulation

This opinion was placed before the Council in their meeting held on the 7th instant and it was resolved to forward the opinion to Government

Copies of the resolutions of the Sub Committee and the Municipal Council in the matter are enclosed for favour of information of Government

I have the honour to be,
Sir,
Your most obedient servant,

Municipal Commissioner

Forwarded with compliments,

Honorary President.

SM

No 14

PROCEEDINGS OF THE COUNCIL MEETING OF THE CITY MUNICIPAL COUNCIL, BANGALORE, HELD ON THE DAY THE 7TH JANUARY 1933 AT 12 NOON IN THE COUNCIL CHAMBER OF THE CITY MUNICIPAL OFFICE, BANGALORE

Present

B K. Garudachar, Esq., Honorary President.

Councillors

1 Mr C.R Venkataramana Iyengar,
2. " G.H.Hanumanthappa,
3. " P. Subbarama Chetty,
4 " K. " Bhashyam Iyengar,
5. " Amrit Thiveri,
6. " V.H.Venkataramanappa,
7. " [illegible] Chetty,
8 " B.L.Byanna,
9 " C.K.Narasimha Rao,
10 Dr D.Gopalakrishna Rao,
11 Mr K.Srikantiah,
12 " H.B Ramakhara Rao,
13 " C Venkatapathiah,
14 " N Balakrishnaiah,
15 " Khaja Mohmed Khader Sheriff,
16. " Abdul Lajeed,
17. " Mohmed Hussain,
18 " B D Naidu,
19 Dr M Hoyen,
20 Mr B Kempanna,
21. Mr Thangavelu Pillay

Absent

1 Mr Salur Srinivasa Iyengar,
2. " Hoskote Bhadrappa,
3. " D Venkataramanappa,
4. Dr [illegible] Ramachandra Rao,
5 Mr C V Srinivasa Chetty,
6. Sri Srirangamma,
7 Mr C Nasrulla Sheriff,
8. " V Sundramurthy.

29 To consider the opinion of the Special Committee meeting dated 16th December 1932 that a restriction against the construction of a Theatre or a Cinema hall in the site in Sri Narasimharaja Road sold Mr Hoskote Bhadrappa could be validly attached to the grant under Para 2 of Section II of the Transfer of Property Regulation

Resolution ,--- Resolved that the opinion of the Special Committee be approved and it XXX be sent to Government

Sd B K Garudachar
Hon President

Copy"

For Municipal Commissioner

SM

Proceedings of the adjourned meeting of the Special Committee of all the Lawyer members of the Council constituted by the Council on 14th May 1932 held on Friday the 16th December 1932 at 5 P M in the Council -- Chamber of the City Municipal Office, Bangalore, for giving their opinic regarding the letter from the General Secretary to Government directing that the sale of site on Sri Narasimharaja Road to Mr Hoskote Bhadrappa be cancelled as it is doubtful whether the condition that no Cinema Hall or Theatre should be constructed would be enforced and that the land be kept open

P r e s e n t

M P Somasekhara Rao, Esq , B A , LL B ,
(Chairman)

Members --

1 B Kempanna, Esq
2 C N Narasinga Rao Esq , B A , B L
3 S K Venkataranga Iyengar, Esq , B A , LL B ,
4 Belur Srinivasa Iyengar, Esq B A B L

A b s e n t

1 N Balakrishniah Esq , B A , LL B ,
2 S Venkatapathiah Esq B A , LL B ,
3 O S Nasarulla Sheriff, Esq , M A , LL B ,
4 K T Bhashyam Iyengar Esq , B A , B L

Resolution --

Resolved that in the opinion of the Committee a restriction against the construction of a Theatre or a Cinema hall in the site could be validly attached to the grant under Para 2 of Section 11 of the Transfer of Property Regulation

Sd M P Somasekhara Rao
Chairman

"C o p y"

For Municipal Commissioner

Appendix F G—1]

SUBJECT

Section mel

File No 61-32

Serial No 49

y No of letter replied to L 3290

No L 6676

To

The municipal commr

Bangalore city

(thro the President)

Sir

In correspondence ending with

With reference to your letter no 6 To 224 dated 26/11/32 forwarding for information Copy of the resolution of the mbl thro a restriction against the continuance of a Theatre or a Cinema hall on the site proposed to be sold to mr Hanchi Bhadrappa on Sri Narasimharaja Road Could be Validly attached to the grant under Para 2 of Section 11 qua [illegible] of Prof Tax Regulation, I am directed to

General and Revenue Secretariat

(mel)

the 193

Date of issue 17/4/33

Signed by Mr A S Rao

List of enclosures

Copied by

Examined by 15/4/33

WD 0253—GPB—15 000—26 8 32

[illegible] that apart from me
[illegible]tion of the Validity of imposing a
[illegible] law like the one proposed,
[illegible] can consider it expedient
[illegible] view of all the circumstances, to
[illegible] of the laws for and hist what
the law has been cancelled, as
already [illegible]

I have etc

Aug 10/64 for General Leighton

L 6678

15th April 1933.

The

The Municipal Commissioner,
City Municipal Council, Bangalore
Through the President, City Municipal Council, Bangalore

With reference to correspondence ending with your letter No G To. 224, dated 26th November 1933, forwarding for information copy of the resolution of the Municipal Council that a restriction against the construction of a Theatre or a Cinema hall in the site proposed to be sold to Mr. Hoskote Bhadrappa on Sri Narasimharaja Road could be validly attached to the grant under Para 2 of Section 11 of the Transfer of Property Regulation, I am directed to state that apart from the question of the validity of imposing a condition like the one proposed, Government consider it expedient in view of all the circumstances, to keep the land open and trust that the sale has been

cancelled as already ordered.

I have the honor to be,
Sir,
Your most obedient servant,

No 1574

For Secretary to Government,
Development Department

TRW 2